

Page 42	Page 44
<p>1 above, we will reduce the amount we would otherwise 2 pay for the physical loss of physical damage by 15 3 percent." 4 Q. I'm sorry, I want to reach up here. I meant 5 the -- you're right, all right. Sorry, it's 1B, my 6 bad. If you could -- 7 A. Just B? 8 Q. Just B, please. 9 A. "Sprinkler leakage, unless you had 10 protected the system against freezing." 11 Q. Okay. Sir, I'm going to just ask you again the 12 same question, you hadn't read that before? 13 A. With my counsel. 14 Q. Other than with counsel? 15 A. I don't remember reading it before other 16 than with counsel. 17 Q. And sir, what steps did 7th and Allen take to 18 protect the sprinkler system, its sprinkler system 19 from freezing prior to March 4th of 2009? 20 A. We made sure there was heat in the area 21 where the sprinkler system was -- well, in the 22 building where the sprinkler system was. 23 Q. And how did you make sure there was heat in the 24 building?</p>	<p>1 A. Frequently. 2 Q. Give me -- a better question, weekly, monthly, 3 bi-annually, give me some idea? 4 A. I mean, when he was in it he was probably 5 in it for a series of days and maybe not in it for a 6 while. I mean, we were in the building. I mean, 7 one of us was in the building. I was in the 8 building a lot of times. 9 Q. What kind of events caused Brian Hannin to go 10 to the building? 11 A. Well, one of the things that happened 12 frequently was that the alarm system would go off. 13 Sometimes they went off -- every time I imagine they 14 went off improperly, they went off improperly. But 15 every time an alarm system went off someone had to 16 go there and frequently went off in the middle of 17 the night. 18 Q. How about other than alarms, any other reason? 19 A. Yeah. We had tenants we were showing the 20 property to. Had calls from the drugstores 21 periodically that something was going on. They had 22 a loading area that they had to keep clear. I mean, 23 we had various things happen up there. 24 Q. Did you have -- did you have a real estate</p>
Page 43	Page 45
<p>1 A. We went there. 2 Q. When you say you went there, what do you mean? 3 A. Well, I was in the building numerous 4 times, property managers were in the building 5 numerous times. 6 Q. Well, give me again, same question, the last 7 time you were in the building before March of 2009? 8 A. I was probably personally in the building 9 within a year before. In addition, the property 10 manager Brian Hannin was in the building. 11 Q. How about before that? 12 A. I can't tell you exactly what the dates 13 were. I mean, I was in the building hundreds of 14 times, but I can't remember exactly what the dates 15 were. 16 Q. All right. I'm just trying to figure out -- 17 A. But in addition to me, the property 18 managers were in the building. 19 Q. Okay. Laura Hart testified she never saw the 20 building, so before Laura Hart was Brian Hannin? 21 A. Uh-huh. She just took over when the loss 22 happened. 23 Q. How often, if you know, was Brian Hannin in the 24 building?</p>	<p>1 broker or agent you were using to show the property? 2 A. No, we do that ourself. 3 Q. Okay. 4 A. We showed the property ourself. 5 Q. Okay. As far as records of inquiries into 6 leasing the property, would those be in the files of 7 Professional Property Management? 8 A. I don't imagine there are old records of 9 people that we attempted to lease the property to 10 that we didn't lease it to. 11 Q. Right. How about? 12 A. Some of it was very, very extensive, some 13 of it was extremely extensive. So there would be 14 records of it somewhere, but I can't think of any 15 specific record we kept on a deal that didn't go 16 through, but some of it was very extensive. 17 Q. But to the extent there were these discussions, 18 you don't know if any of them -- put it this way, if 19 they weren't in the paperwork that was provided to 20 me by their counsel, would it be anyplace else? 21 A. Then I couldn't know where they were, no. 22 Q. Okay. Sir, did you -- was the -- was there any 23 heating system that was dedicated to the second and 24 third floor of the building?</p>

12 (Pages 42 to 45)

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1 A. Just the heat from the first floor heated
2 the second and third floor. We never really needed
3 heat. The guy that operated the second floor never
4 used heat. Operated there 25 years, never used
5 heat.

6 Q. Were there heating systems that could have been
7 used to heat the second and third floor?

8 A. It's my understanding they could have
9 been, yes. It's my understanding you couldn't be
10 out there, you probably couldn't do -- we didn't
11 need to. We also had that option we could have
12 supplied supplemental heat to the second and third
13 floor if we needed to. We didn't need to.

14 MR. GABLE: And let me mark this next.

15 * * *

16 (Whereupon, Exhibit Diemer-6 was marked
17 for identification.)

18 * * *

19 BY MR. GABLE:

20 Q. Sir, I'm going to show you what we've marked as
21 Diemer-6. It's got a bates label of 1323 and it's a
22 December 13, 2002 letter from Emil DiTullio --
23
24

1 A. We probably had one every year.

2 Q. Okay. Turn to the second page. Well,
3 actually, go to the first page for a second.

4 Mr. DiTullio tells Miss White on the second
5 paragraph, "The building was identified with a
6 number of safety hazards and a lack of appropriate
7 maintenance controls. The list of recommendations
8 for corrective action is outlined on the next page.
9 These recommendations are to be considered
10 mandatory/critical and completion is required. A
11 lack of response and completion could jeopardize the
12 insurance policy coverage. Please respond back in
13 the enclosed envelope within 30 days with a plan of
14 action to address these issues."

15 Sir, is this the type of document that would
16 have been brought to your attention?

17 A. Probably.

18 Q. And given the recommendation of the insurance
19 company that the issues in here were
20 mandatory/critical and the completion is required,
21 would you have directed that the items addressed in
22 the report be taken care of?

23 A. I don't know what you mean by taken care
24 of. I would use the word addressed.

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1 D-I-T-U-L-L-I-O -- from Peerless Insurance to Connie
2 White at Professional Property Management.

3 A. Right.

4 Q. Sir, do you recall seeing this document before
5 today, other than with counsel?

6 A. No.

7 Q. Do me a favor and -- strike that.

8 Did you ever have insurance on the building
9 through Peerless Insurance?

10 A. You know, I don't remember Peerless
11 specifically. We always had insurance on the
12 building.

13 Q. Okay. The letter is directed December 13, 2002
14 to Connie White. At that time was she the property
15 manager for the building?

16 A. Yes.

17 Q. The letter describes Mr. DiTullio's visit to
18 the property. Do you recall any discussions about
19 with Connie White about Mr. DiTullio or anyone from
20 Peerless Insurance visiting the building in 2002?

21 A. I remember that we got a report. I don't
22 remember -- I didn't remember until we see this the
23 detail of it, but it's a report.

24 Q. Turn to the second page.

1 Q. Okay. Turn to the second page, the second
2 recommendation, 2-10-02, "The sprinkler system is
3 wet pipe type and the upper floors are all
4 non-heated. The heating system should be service,
5 inspected and activated for the upper floors and
6 basement to provide at least a 45 degree interior
7 temperature. This will prevent the potential for
8 sprinkler freezing, pipe break and resulting water
9 damage."

10 What was done to address that recommendation,
11 if anything?

12 A. I think we just pointed out to them that
13 it was heated.

14 Q. What do you mean you pointed out to them that
15 it was heated?

16 A. These kinds of things, you know, we just
17 addressed them. I think we addressed it with them.
18 I think they issued the policy. As far as I know
19 they did.

20 Q. Understood. But I'm trying to figure out what
21 it is specifically.

22 A. He's saying that -- he's saying that the
23 second and third floor are non-heated. We didn't
24 supply a specific heat to them, but they were

13 (Pages 46 to 49)

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<p>1 heated. They were heated with -- from the heat from 2 the first floor. They weren't -- the second and 3 third floor weren't cold. 4 Q. Sir, I'm just reading what he wrote. 5 A. I agree. I read what he wrote, too. As 6 far as I know the policy, we just told him it was 7 heated. I'm paraphrasing, we told him it was 8 heated. 9 Q. He's recommending at least in what he wrote 10 here that the heating system for the second and 11 third floor should be turned on, is that what he's 12 saying? 13 A. Well, he is saying that at that point, 14 yes. 15 Q. Okay. 16 A. We didn't do that and they continued the 17 policy. 18 Q. Okay. 19 A. We addressed it in a different way. 20 Q. Go down three more to 2-10-05. "The roof is in 21 poor condition with a severe leak problem. The 22 services of a roofing contractor should be obtained 23 to provide new resurfacing and corrective repairs." 24 Do you recall addressing that recommendation?</p>	<p>1 believe and counsel can correct me if I'm wrong, but 2 that Mr. Rohner produced some e-mails and we haven't 3 bates labeled them. 4 MR. KANCHER: Yes, I think that is one. 5 MR. GABLE: One of those that he 6 produced? 7 MR. KANCHER: Yeah. 8 BY MR. GABLE: 9 Q. Just take a second and read through it. The 10 second e-mail at the bottom, the second portion was 11 the e-mail from Laura Hart to Craig and yourself on 12 Friday March 6th, so if you could read that? 13 A. Okay. 14 Q. Do you recall getting this e-mail? 15 A. I think so, yes. 16 Q. Now, Laura mentions in the last paragraph that, 17 "When the sprinkler company was investigating the 18 pipes, they found another, unrelated 3/4 inch pipe 19 running from a radiator system to a bathroom in the 20 basement. It has apparently been on and running for 21 years. There is a drainage system, however, the 22 water did cause quite a bit of damage and mold. 23 This has not yet been turned off. I need direction 24 from one of you on how to handle this."</p>
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<p>1 A. Yes. 2 Q. How did you -- 3 A. I don't remember this one, but I know we 4 had to continually service the roof. 5 Q. Okay. Sir, did anybody ever report to you that 6 when the leak of March 4th, 2009 was investigated 7 that one or more of the windows shown on Diemer-2 8 was found to be opened? 9 A. No, they didn't. 10 Q. Okay. No one's ever told you that? 11 A. In connection with the litigation I've 12 heard that. 13 Q. Not before? 14 A. That's all. 15 MR. GABLE: Mark that. 16 17 * * * 18 (Whereupon, Exhibit Diemer-7 was marked 19 for identification.) 20 * * * 21 22 BY MR. GABLE: 23 Q. Sir, I'm just going to show you an e-mail that 24 we've marked as Diemer-7. Just for the record, I</p>	<p>1 Do you recall learning about that from Laura? 2 A. I remember learning about it generally, 3 yes. 4 Q. If you look at the e-mail above it from Craig 5 Rohner, his response, he says, "The 3/4 inch line 6 probably goes back to when the basement was used by 7 the IRS." 8 Is that what you believed as well? 9 A. No. I didn't remember it that way, but he 10 apparently did. 11 Q. That's fine. What do you remember it as? 12 A. I don't remember there being any issue 13 with the 3/4 inch line until I saw this. The IRS 14 never complained or anything. I mean, I just don't 15 remember it in connection with the IRS, but the IRS 16 used the basement, as far as I know there wasn't any 17 leaks. We know there wasn't any complaint. They 18 came back the next year. 19 Q. Do you know was the -- she refers to, "The 20 water caused quite a bit of damage and mold," do you 21 know whether that damage and mold was repaired? 22 A. I doubt it. 23 Q. Why do you doubt it? 24 A. We just shut the building down.</p>

14 (Pages 50 to 53)

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1 Q. Okay.
2 A. I'm just going to take a break again.
3 Q. Sure.
4
5 * * *
6 (Whereupon, a brief recess was taken.)
7 * * *
8
9 BY MR. GABLE:
10 Q. Sir, back to Diemer-7 for a second.
11 Mr. Rohner's recommendation in the first paragraph
12 says, "My vote would be to bit -- I think he meant
13 bite -- the bullet and fix the mold problem now
14 before we are forced to at a later time."
15 Does reading that change your opinion one way
16 or another whether that was fixed?
17 A. I just don't know.
18 Q. You just don't know. Okay.
19 MR. GABLE: Mark that.
20
21 * * *
22 (Whereupon, Exhibit Diemer-8 was marked
23 for identification.)
24 * * *

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1 BY MR. GABLE:
2 Q. Sir, I'm going to show you what we've marked as
3 Diemer-8. It's got a bates label 0632. It was also
4 marked as Hart-9. It was a March 23, 2009 letter to
5 7th and Allen Equities from the Building Code Office
6 from the City of Allentown.
7 A. I saw a number of these. I don't remember
8 this specific one, but I don't think there's more
9 than one of these, so yes.
10 Q. Do you recall there being -- the Town of
11 Allentown got involved with the building
12 specifically followed the March event?
13 A. Yes.
14 Q. Okay. And do you recall that the building was
15 cited for the violations found on the second page of
16 this document?
17 A. Yes.
18 Q. What, if anything, did 7th and Allen do to
19 resolve the violations on the second page?
20 A. You know, I can't tell you about every
21 one. I know we removed the water soaked items.
22 Q. Okay.
23 A. We dried the floor.
24 Q. Okay.

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1 A. We certainly didn't replace the windows.
2 We may have braced them additionally or tried to
3 find out what we want -- he wanted. I don't know.
4 We didn't replace the windows.
5 Q. Why not?
6 A. I think we did repair the roof.
7 Q. Okay. If you didn't replace the windows, do
8 you know why not?
9 A. Just didn't seem to be called for. I
10 think he just backed off on that.
11 Q. Okay.
12 A. I think we probably replaced the ceiling
13 tiles.
14 Q. Okay.
15
16 * * *
17 (Whereupon, Exhibit Diemer-9 was marked
18 for identification.)
19 * * *
20
21 BY MR. GABLE:
22 Q. Sir, I'm going to show you what we've marked as
23 Diemer-9, the same document marked as Hart-10 and
24 it's bates labeled 0772. It's a May 27, 2009 letter

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1 to Patrick Roels.
2 A. From Patrick.
3 Q. It's from Patrick to Laura Hart at Professional
4 Property Managers.
5 A. Now I got the right one.
6 Q. If you look at it, if you go back to
7 Diemer-8 --
8 A. Right.
9 Q. -- and look at the second page, you'll see that
10 your daughter was responding to the various
11 violations noted.
12 A. Uh-huh.
13 Q. Sir, it looks just to I think correct the
14 record, although you can tell me if I'm wrong, she
15 represents to Mr. Roels that the windows were
16 replaced in May of 2009?
17 A. It's just not consistent with what I
18 remember, but I agree that's what she said.
19 Q. That's what she said. And having read that, do
20 you -- does that refresh your recollection or you
21 still think you didn't replace the windows?
22 A. No, I don't remember replacing the
23 windows.
24 Q. Okay. Would that have been something that

15 (Pages 54 to 57)

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1 would have been approved by you, a job like that?

2 A. You know, I don't remember. I may have
3 approved it as a part of a bunch of other stuff, but
4 I don't remember specifically approving that.

5 Q. Okay. She also represents that at least in
6 here, I guess, that she calls it cleanup trash/water
7 extraction/drying/ventilation/carpet removal took
8 place between 3-4-09 and 5-13-09. Is that also
9 consistent with your recollection?

10 A. Yes.

11 Q. Now, did there come a time following the
12 cleanup from the March event where there were
13 subsequent water issues in the building, meaning
14 water leak issues?

15 A. Yeah. I think somebody damaged the pipe
16 or something and we had a second event.

17 Q. How about with the roof, do you recall
18 complaints from the tenant Rite Aid that the roof
19 had leaked?

20 A. We did -- we had, it's a difficult roof.
21 So yes, we had complaints that the roof leaked and
22 when they complained the roof leak, we fixed it.

23 Q. When you say it was a difficult roof, what was
24 the problem with the roof in the building?

1 it's a series of e-mails bates labeled 611 through
2 614. Sir, in the interest of full disclosure, you
3 weren't copied on any of these, so I don't want to
4 suggest you've seen these before today. I just
5 wanted to find out, and take a second and look
6 through them, as to whether or not you recall the
7 complaints that are lodged by Rite Aid in these
8 e-mails, whether you recall them in and around June
9 of 2009?

10 A. They're just the kind of thing that
11 happens. So these don't stand out to me as
12 opposed -- as unique from any other.

13 Q. Okay. Did Rite Aid after the event of March
14 4th, 2009 did Rite Aid remain in the building?

15 A. Yes.

16 Q. And when did they eventually leave?

17 A. I think they left after the second event.

18 Q. Okay. And do you know why they left?

19 A. I think because the town was still
20 alleging code violations from the first incident
21 and, you know, I think there were some other things
22 going on. I know the town was trying to induce them
23 to go into the building that the town owned or had
24 some reason for wanting them to go into another

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1 A. Just the way it was built. It was built
2 100 years ago. It was a roof that would perpetuate
3 leaks from time to time and we would fix them.

4 Q. Was it a flat roof with a rubber membrane?

5 A. Pretty much, yes.

6 Q. And do you recall when the membrane that was up
7 there had been originally installed? How old was
8 it?

9 A. No, I don't know.

10 Q. Had you replaced the roof in the time you owned
11 the building?

12 A. I don't remember replacing it as such. I
13 remember repairing it, some were extensive, some
14 repairs were less extensive.

15 Q. Okay.

16 MR. GABLE: Mark that.

17 * * *

18 (Whereupon, Exhibit Diemer-10 was
19 marked for identification.)
20 * * *

21 BY MR. GABLE:

22 Q. I'll show you what we marked as Diemer-10. And

1 building across on the other side of town.

2 They had a great deal of issues with not being
3 able to get the scripts to the people if the
4 building was closed. People whose prescriptions
5 were sitting on the counter, people coming to the
6 door to pick up their prescriptions, which they
7 needed, and they couldn't dispense the prescriptions
8 to them because the store was closed. And that was
9 a major issue with them. Very high volume store.
10 Q. Let's talk about you said that you thought
11 there were code violations from the first incident
12 that hadn't been resolved. What were those, if you
13 know?

14 A. I don't know.

15 Q. Okay.

16 A. I don't know specifically. I just know in
17 general we couldn't do all the work to the building.
18 The insurance company wouldn't pay us and we just
19 made the building -- you know, just took care of
20 life safety issues.

21 Q. What is it that you believed that you had to do
22 with regard to the first incident that you didn't
23 do?

24 A. We didn't do -- we didn't do much of

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1 D-12 -- the second is the July 20th is a series of
2 code violations. Do you also recall getting that
3 document?
4 A. Yes.
5 Q. Did that also come after the second event?
6 A. Yes.
7 Q. And who is S. David Fineman?
8 A. He was an attorney that was representing
9 me at the time.
10 Q. Okay. And is it your understanding that these
11 were the code violations in regard to the second
12 incident?
13 A. I don't remember them that way. Frankly,
14 I don't remember the first incident, second
15 incident. It was all sort of one as far as I'm
16 concerned, but the way you're phrasing it. Well, I
17 mean you can -- you can see for yourself from the
18 dates that it's after the second incident.
19 Q. Were the issues in the second, when I say --
20 let's put it this way, in the July 20th list of code
21 violations, were they addressed by 7th and Allen
22 Equities to the satisfaction of the Town of
23 Allentown?
24 A. No.

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1 Q. And why not?
2 A. Well, the primary, I guess there was a lot
3 of reasons. The primary reason was we couldn't
4 collect money from the insurance company.
5 Q. Okay. Did you not have the money available to
6 do the repairs?
7 A. Well, 7th and Allen Equities was a single
8 purpose LLC. The only thing it did was own this.
9 It had no funds.
10 Q. How did it get funds?
11 A. We had to rely on capital contributions,
12 Craig Rohner and I.
13 Q. Did you and Craig Rohner have sufficient funds?
14 A. We didn't have five million dollars
15 available. No, we didn't have money available to
16 restore the building. We didn't have money
17 available to accomplish that absent the insurance
18 company paying us, no.
19 Q. What did you understand the scope of repair
20 that was necessary to fix the water damage from the
21 March 4th, 2009 loss? I don't mean now, back then
22 what did you understand you had to do?
23 A. We never could get a complete grip on it,
24 on all of what was going to be entailed because it

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1 just seemed to keep going on and on. The longer
2 that we couldn't do the repairs, it seems to be
3 getting worse almost to this day to some extent,
4 but -- can you just read back the question to me
5 again? I may have already answered it.
6
7 * * *

8 (Whereupon, the court reporter read back
9 the pending question.)
10 * * *

11 THE WITNESS: I couldn't get a grip on
12 that.

13 BY MR. GABLE:

14 Q. Why couldn't you get a grip on it?

15 A. We couldn't get any single purpose -- any
16 single company to give us a complete total estimate
17 of what it was going to do to restore the building
18 after the first loss. Which again, the first loss
19 and the second loss to me were all the same.

20 Q. Well, as to the -- as to the first loss, what
21 companies did you engage to go out and assess the
22 damage that was caused by that event?
23

24 A. Well, my son-in-law took the lead on it

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1 and he used all the resources he had to try to get
2 us estimates. Craig Rohner was in the construction
3 industry and he tried to play an active role in it,
4 but I went out and looked at the building and did
5 the best I could, but we couldn't get a complete
6 estimate. And as we were trying to go through that,
7 it almost seemed like it was getting worse because
8 it was sitting and we just couldn't get an estimate
9 on what it was going to cost to restore the
10 building.
11 Q. What efforts did you take to try to get an
12 estimate of what it would take?
13 A. I think my son-in-law was there every day,
14 Craig Rohner was there, he was involved in trying to
15 help trying to put something, an estimate. I was
16 trying to put together an estimate. We had three to
17 four pretty talented people, as good as a talent, we
18 couldn't do it, get together an estimate.
19 Q. Other than yourself, Mr. Rohner and your
20 son-in-law, anybody else that you engaged to assist
21 with that process of trying to develop a scope of
22 repair from the March 4th, 2009 water leak incident?
23 A. The answer to it is yes, I can't tell you
24 exactly who because I don't remember exactly who

18 (Pages 66 to 69)

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1 sitting here, but the answer is yes. We used every
2 resources we could to try to get an estimate. We
3 couldn't get our hands around it. It was just too
4 much, too big.

5 Q. It was impossible to develop a scope of repair
6 from that?

7 A. Yes. We could not get our hands around
8 it.

9 Q. If it was impossible to develop a scope of
10 repair, it was impossible to determine whether you
11 could afford to repair it?

12 A. No. We were trying to get the cooperation
13 of the insurance company, but the insurance company
14 was refusing to cooperate with us. Without the
15 insurance company's cooperation, we couldn't get our
16 hands around it.

17 Q. Why not?

18 A. We couldn't get our hands around it. Why
19 not, I don't know why not. We couldn't get our
20 hands around it. We couldn't get any cooperation
21 from the insurance company. We were trying to talk
22 to the insurance company, at the same time we were
23 trying to get estimates on the repairs in a
24 compressed timeframe. We couldn't get our hands

1 this document?

2 A. Yes.

3 Q. And just so the record is clear, Bill Hart is
4 your son-in-law?

5 A. Yes.

6 Q. And I believe your earlier testimony was that
7 you asked Mr. Hart to assist you with developing a
8 scope of repair --

9 A. Uh-huh.

10 Q. -- to the building? Is this a report that he
11 gave you as part of his work in that regard?

12 A. Yes.

13 Q. Now, he's outlining for you the repairs that he
14 feels are necessary to fix the building. First, why
15 don't you get D-12, Diemer-12 because I think if we
16 look at Diemer-12 and Diemer-13 together, we can see
17 what the code violation was and match that up.

18 A. Okay.

19 Q. With his letter. Now, the first code violation
20 was 1754.02, "Repair brickwork, point brickwork to
21 weather-tight and watertight sound condition free
22 from growth of vegetation and leaks."

23 Sir, first question to you is the citation
24 here, is that the result of the March 4th, 2009

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1 around it at the time.

2 Q. I guess my question is ignore the insurance
3 company for a second.

4 A. Okay. I'm having a couple problems with
5 the way you're framing the question. That's causing
6 my answers maybe to sound -- in any event, it's
7 frustrating for me. And frustrating for me there's
8 a couple things you're saying when you ask me the
9 questions in a certain way. It's hard for me to
10 answer them. I'm answering them the best I can.

11 Q. I appreciate that and I will do my best to try
12 to ask my questions as clearly as I can. But you
13 know what, let's do it this way.

14 * * *

15 (Whereupon, Exhibit Diemer-13 was
16 marked for identification.)

17 * * *

18 BY MR. GABLE:

19 Q. Sir, I'm going to show you what we've marked as
20 Diemer-13. It's bates labeled 686 through 688 and
21 it's a letter, a memo from Bill Hart to yourself
22 dated August 2nd, 2009. Sir, do you recall getting
23

1 sprinkler leak?

2 A. No, I don't think so.

3 Q. Okay. Mr. Hart reported to you that he
4 estimated that that could be repaired for an
5 estimate of \$20,000. Do you know whether that work
6 was ever done?

7 A. I don't think so.

8 Q. Okay. Second violation 1754.02, "Repair -- I'm
9 sorry -- replace or repair roof, leaks evident."

10 Mr. Hart's response is, "Inspector feels
11 patching is not going to cut it. Roof has been
12 leaking for probably 20 plus years. Roof deck is
13 poured concrete and its integrity is in question.
14 Leaks are evident by all the slagmites/stalagmites
15 coming down off the ceiling throughout the third
16 floor. Leaks have also loosened up approximately
17 2,000 square feet or so of asbestos floor tile,
18 which the inspector questioned if it is okay to
19 leave these. We will probably be asked to supply a
20 report. Roof leaks have traveled throughout floors
21 3, 2 and 1 and are the main reason the building is
22 condemned. We are waiting on costs, we should have
23 them by the afternoon of 8/4, but will probably be
24 in the \$200 to 300K range."

19 (Pages 70 to 73)

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1 Do you recall getting that report from Mr.
2 Hart?
3 A. Yes.
4 Q. He refers to what he writes slagmites and
5 stalagmites on the third floor. Do you recall
6 seeing those when you were in the building?
7 A. I remember seeing evidence that there had
8 been leaks.
9 Q. And when did you recall seeing that, the
10 evidence of leaks throughout the time that you owned
11 the building or were they in the specific period of
12 time?
13 A. No, I think they were there when they
14 bought the building.
15 Q. Okay. With regard to his comment that, "Roof
16 leaks have traveled throughout floors 3, 2 and 1 and
17 is the main reason the building is condemned," do
18 you agree or disagree with that statement?
19 A. No, we couldn't get a grip on the reasons
20 the building was condemned. We were trying to get a
21 grip on it and we didn't get a grip on it. We don't
22 know why the building was condemned. I was much
23 more involved in it than Bill was.
24 Q. Why do you say that?

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1 A. I had a number of citations and court
2 hearings up there that I had to deal with and we
3 could not get a grip on all the reasons why the
4 building was condemned. They would give us a reason
5 and add additional reasons. I don't think he knew
6 that. I think he's saying the best he knew, but he
7 was wrong.
8 Q. Okay. Did you ever make the repairs that he
9 suggests here on the roof?
10 A. We did make repairs to the roof, we did
11 not replace the roof.
12 Q. And was that the roof work, was that related to
13 the March 4th, 2009 sprinkler leak incident?
14 A. No.
15 Q. Go to 1750, just look at --
16 A. I just got to take a break for a minute.
17 Q. Sure.
18 * * *
19 (Whereupon, a brief recess was taken.)
20 * * *
21
22 BY MR. GABLE:
23 Q. Sir, if you would, before we broke we were

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1 looking at the violations listed in the July 20th,
2 2009 letter. The fifth violation 1756.07 says,
3 "Remove all water soaked, damp, rotting items from
4 all spaces in building."
5 Now, if I understood your testimony before, did
6 you remove water soaked items from the building
7 following the March 4th event, had that work already
8 been done with regard to the first event?
9 A. You know, I'm having a problem with that
10 because I don't remember it was a first event and a
11 second event. The answer is we removed the items
12 from the building, whether we removed them before or
13 after, I don't know. I just know we removed the
14 items from the building.
15 Q. Okay. Following the -- following the building
16 being declared unfit for human habitation, which was
17 in the July 8, 2009 notice from the city did Rite
18 Aid vacate the building?
19 A. Yes.
20 Q. Did they declare default on the lease?
21 A. I don't remember that. They may have.
22 Q. Okay. And have they ever returned since?
23 A. No. No. Haven't opened it for business
24 since, I rather say it my way.

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1 Q. Okay. That's fine. Have you been involved in
2 negotiations to try to get Rite Aid back into that
3 building or for them to take over the site or put
4 that space to some use?
5 A. I've been involved with the developer who
6 proposed to demolish the building and build a new
7 Rite Aid.
8 Q. Okay.
9 A. Hasn't been working out.
10 Q. When did those discussions begin?
11 A. I'm just going to give a general
12 timeframe. The answer is I don't know, but to try
13 to answer your question, I believe it's been within
14 the last year.
15 Q. Okay. Do you know who the developer is you're
16 working with?
17 A. I don't know their formal name.
18 Q. How do you know them?
19 A. Joseph Pacera -- P-A-C-E-R-A.
20 Q. And did you know Mr. Pacera before the March
21 2009 event?
22 A. Probably knew him. I didn't know him in
23 connection with this property.
24 Q. Okay.

Page 98	Page 100
<p>1 Q. I'm just going back to Exhibit 17. On the 2 second page, first full paragraph, you write, "We 3 also note that the Property was not "vacant" in 4 March 2009. Rite Aid leased approximately two 5 thirds of the first floor of the Property. 7th and 6 Allen used significant portions of the second and 7 third floors of the property to store equipment and 8 other materials that are incidental to its business 9 and part of its customary business operations." 10 What type of materials and equipment and other 11 materials were you storing on the second and third 12 floors? 13 A. We had all of the equipment from the 14 assembly operation stored on the second floor. It 15 was full of equipment. And I don't remember 16 specifically what was on the third floor. There was 17 some things on the third floor, but I don't remember 18 specifically what they were. 19 Q. Do you remember generally? 20 A. No, I don't. I don't remember right now, 21 no. 22 Q. You say in the next paragraph, "The estimated 23 cost to repair the damage from the March 2009 Loss 24 is \$1,676,332. We've attached an estimate</p>	<p>1 George and I are going to file against Hartford 2 Insurance. We will need at least three copies. If 3 any of these seem questionable, let's discuss. 4 Thank you." 5 Notice beyond that is a list of invoices, some 6 of which you will need a help of some sort of 7 forensic person to read, but the total \$231,409.93, 8 which is -- which is almost the precise amount 9 that's found in your letter of January 4th, 2011. 10 You see that? 11 A. I see -- I see this. 12 Q. Yes. 13 A. I don't see the number you're talking 14 about. 15 Q. Go back to the last page, we have the 16 spreadsheet out, not the letter but the very last 17 page there. 18 A. Okay. 19 Q. One more. 20 A. Okay. 21 Q. You see a list of bills paid out of pocket 22 231,200? 23 A. I do see it. 24 Q. Laura has compiled a spreadsheet \$231,409?</p>
Page 99	Page 101
<p>1 reflecting how that repair cost was calculated." 2 And I think if I go to the last page, I see 3 the -- I see a breakdown of that number, is that 4 correct? 5 A. Yes. 6 Q. Okay. Now, who compiled the number here on 7 bates labeled 27, the fourth page of the exhibit? 8 A. I don't know. 9 Q. Did you have any role in compiling it? 10 A. It's possible, I don't know. I just don't 11 remember this. 12 MR. GABLE: Mark this as the next. 13 14 * * * 15 (Whereupon, Exhibit Diemer-18 was 16 marked for identification.) 17 * * * 18 19 BY MR. GABLE: 20 Q. I'm going to show you what we've marked as 21 Diemer-18. It is bates labeled 1236 through 1239. 22 Second page of that is a fax from Laura to Craig 23 Rohner. It says, "Enclosed are the invoices I would 24 like copied as part of our insurance claim that</p>	<p>1 A. Here? 2 Q. The one we were just talking about. 3 A. Laura compiled this? 4 Q. Well, it's her -- I'm looking at her fax cover 5 sheet. 6 A. No, she didn't compile this. I mean, I 7 can't identify this as something she compiled. I 8 don't recognize the handwriting. I don't think she 9 compiled that, but I don't know. I don't know who 10 compiled that. 11 Q. Okay. Look at the fax on the second page of 12 this and this came from your files, didn't come from 13 mine. 14 A. No, right. I understand that. 15 Q. The fax on the second page from Craig to 16 Laura -- I take it back and I think you're correct, 17 I read it incorrectly. Craig to Laura says, 18 "Enclosed are the invoices I would like copied as 19 part of our insurance claim." 20 Is it your recollection that Craig compiled 21 these invoices for use in part as part of your 22 insurance claim? 23 A. I don't have an independent recollection. 24 If he did, he did, I don't recollect any of it.</p>

26 (Pages 98 to 101)

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1 Q. Did you use the figure or was the figure found
2 at the bottom of the last page of this exhibit, this
3 exhibit being 18, was that the figure that you used
4 in your compilation of damages in 17?

5 A. It appears to be.

6 Q. Okay. How did -- if you know, how was it
7 determined what bills were going to go in this list
8 of bills paid out of pocket?

9 A. We -- which was primarily not me, but we
10 did it with the advice of counsel.

11 Q. Okay.

12 MR. GABLE: Go ahead and mark this one as
13 the next.

14 * * *

15 (Whereupon, Exhibit Diemer-19 was
16 marked for identification.)

17 * * *

18 MR. GABLE: I do not have an extra copy of
19 this one, just take a second and look at it.

20 MR. KANCHER: Okay.

21 BY MR. GABLE:

22 Q. Sir, I'm going to show you what we've marked as

1 Q. Let me finish -- on or about August 12th, 2009
2 to do work on the roof?

3 A. Yes.

4 Q. What was your understanding of the scope of
5 work Swiderski was going to do?

6 A. I don't remember.

7 Q. Now, if I look at the last part, look at page
8 1143.

9 A. Uh-huh.

10 Q. And it looks like you're obligated to give
11 three separate payments, \$58,693, is that correct?

12 A. Yes.

13 Q. Do you recall that the work to be done was with
14 regard to fixing the roof of the building --

15 A. Yes.

16 Q. -- at 7th and Allen? Now, was that work -- was
17 that work subcontracted through WMH Construction?

18 A. I don't remember.

19 Q. Take a look now, I'm going to work backwards,
20 look at the WMH Construction invoice.

21 A. Yes.

22 Q. It should be also in that packet you have
23 there.

24 A. Okay.

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1 Diemer-19. It's also bates labeled number 66. And
2 it appears to be an invoice, the top part looks like
3 it was cut off, but given what it says in the
4 address on it, I believe it's from WMH Construction,
5 LLC. Do you see that?

6 A. Yes, I do.

7 Q. Do you recognize that as a bill from 7th and
8 Allen from WMH Construction, LLC?

9 A. Appears to be, yes.

10 MR. GABLE: Go ahead and mark this as the
11 next.

12 * * *

13 (Whereupon, Exhibit Diemer-20 was
14 marked for identification.)

15 * * *

16 BY MR. GABLE:

17 Q. A lot of paper juggling here. I'm going to
18 hand you Diemer-20. Diemer-20 is a contract with
19 Swiderski -- S-W-I-D-E-R-S-K-I -- Contractors, Co.
20 and 7th and Allen Associates to do certain work on
21 the roof of the building. Do you recall entering
22 into a contract with Swiderski Contractors --

23 A. Yes.

1 Q. Does that invoice contain a bill from Swiderski
2 for one third the contract price of \$58,693 for work
3 on the roof?

4 A. That's what that invoice says, yes.

5 Q. So that was included in the invoice that was
6 paid to WMH in the amount of \$98,000 and you might
7 have to read the rest to me there.

8 A. It appears to be the same.

9 Q. Yeah, okay. Now, working backwards again to
10 the spreadsheet, if we look at the bills paid out of
11 pocket spreadsheet, in the first section we have
12 what's called non-recoverable repairs and we have a
13 bill for 10-1-09, third from the bottom, WMH
14 Construction accounts payable in the amount of
15 98,000 and change. Do you see that?

16 A. Yes.

17 Q. Okay. So does it appear -- does it appear that
18 the WMH, you're going to have to pull these out
19 because I don't have copies, but does it appear that
20 the WMH invoice that is dated Diemer -- labeled
21 Diemer-19 is included in the compilation of the
22 \$231,000?

23 A. You know, it's a stretch. I don't know.

24 Q. What do you mean it's a stretch?

27 (Pages 102 to 105)

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Page 116

1 Q. Now, I think we looked at the letter from Laura
2 early on that said there was mold found in the
3 basement as a result of the three quarter inch pipe
4 leak. Do you recall that?

5 A. Yes.

6 Q. What steps did you take to differentiate the
7 mold from the pipe leak from what you're claiming
8 here?

9 A. I'm not sure we were differentiating as
10 we're sitting here today. That's an assumption
11 you're making, I'm not comfortable with, but I
12 believe the mold areas were in different parts of
13 the building.

14 Q. Well, you've got 22,000 square feet as the
15 footprint of the basement. Does that appear
16 correct?

17 A. Yes.

18 Q. So it doesn't appear any portion of the
19 basement has been carved out of this calculation.

20 A. I don't know that sitting here today. I
21 see what you're referring to and I think what your
22 question is, but I don't know what the answer to it
23 is.

24 Q. Now, going back to the Exhibit 17, you say that

1 Q. I'm going to show you what we marked Diemer-21.
2 It's the 2009 Partnership Income Return for 7th and
3 Allen Equities, LLC.

4 A. Okay.

5 Q. You see that?

6 A. Yes.

7 Q. Sir, if you would turn to -- you're going to
8 have to go to the tenth page. They're not numbered,
9 so you're going to have to just thumb through. It
10 looks like this.

11 MR. KANCHER: Let me see what you're
12 holding up, Rich. Okay.

13 THE WITNESS: Okay.

14 BY MR. GABLE:

15 Q. Sir, before I even ask you this, do you recall
16 having seen this document before today?

17 A. No, I don't.

18 Q. Would it be your practice to review the
19 Partnership Income Tax Return of 7th and Allen
20 Equities before it's filed?

21 A. No.

22 Q. And why not?

23 A. I don't think I have any specific reason
24 not to. I just didn't have any specific reason to

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1 in the second paragraph you say, "In your letter,
2 you asked what measures 7th and Allen took to
3 protect the sprinkler system from freezing. The
4 building was heated pursuant to the terms of 7th and
5 Allen's lease with Rite Aid."

6 Did it require it to heat any portion of the
7 building other than the leased space?

8 A. That was all that was required. They
9 heated their space.

10 Q. The lease required them to heat their space?

11 A. I'm not sure I would say it exactly that
12 way.

13 Q. Well, --

14 A. The lease didn't require them to -- the
15 lease didn't require them to heat the third floor of
16 the building, but it did because they couldn't heat
17 the first floor without heating the third floor.

18 * * *

19 (Whereupon, Exhibit Diemer-21 was
20 marked for identification.)

21 * * *

22 BY MR. GABLE:

1 review it so I don't.

2 Q. I'm confused. Do you have -- you don't have a
3 recollection of reviewing this. My question is is
4 that something in your normal practice as an owner
5 of the --

6 A. Unless I had a specific reason to review
7 it, I wouldn't.

8 Q. Okay. The document itself is prepared by Paul
9 Martella?

10 A. Yes. It appears to be, it's not signed.

11 Q. And I'll just represent to you that this was
12 provided to us, it's not bates labeled, but it was
13 produced to us, I believe, by Craig Rohner a couple
14 days ago before his deposition.

15 A. Okay.

16 Q. Now, in this section it says, "Explanation for
17 large operating loss."

18 Do you have an understanding that as part of a
19 filing with the IRS that 7th and Allen Equities
20 would have to give some explanation if it was
21 showing a large operating loss?

22 A. I don't -- I don't get involved in these
23 things to that level.

24 Q. Okay. It says in this paragraph, "This rental

EXHIBIT “G”

EXHIBIT “G”

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA
CIVIL ACTION NO. 5:11-cv-01567

7th & ALLEN EQUITIES, :
Plaintiff, :
 :
vs. :
 :
HARTFORD CASUALTY INSURANCE :
COMPANY, :
Defendant :

- - -
Tuesday, July 31, 2012
- - -

Oral deposition of BRIAN HANNON, taken pursuant to notice, was held at the Law Offices of Elkind & DiMento, P.A., 2090 East Route 70; Cherry Hill, New Jersey, 08003, commencing at 12:10 p.m. on the above date, before Heather A. Kirsch, a Certified Court Reporter and Notary Public of the State of New Jersey.

- - -
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SIGNATURE REP TING, INC.

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<p>1 estimate, like you just did, I think, say '94, 2 that's great, we would ask that you do that. If you 3 have to guess, say Mr. Coleman that would be a guess 4 and I don't want you then to guess. 5 A. Okay. 6 Q. Do you understand that distinction? 7 A. Yes. 8 Q. Okay. So graduated or took some course work, 9 college in and around '94? 10 A. Yeah, '94. Say '91 to '94. 11 Q. And what did you do after you finished taking 12 course work? 13 A. I was occupied at Trump Marina. 14 Q. What was your position at Trump? 15 A. Various positions. 16 Q. You tell me what they were? 17 A. Restaurant management, things like that, 18 marketing. 19 Q. How long were you at Trump? 20 A. Say nine years. 21 Q. You managed a restaurant? 22 A. Yeah, I was a supervisor. Yeah. 23 Q. What else did you do there? 24 A. I was in marketing, I was a casino host SIGNATURE REP TING, INC.</p>	<p>1 at Trump? 2 A. Well, I knew George prior to that, too. 3 Q. Okay. How did you know George prior to that? 4 A. Just through friends. 5 Q. Okay. How long have you known George? 6 A. I don't know. A few years probably prior. 7 Q. A few years prior to meeting him at Trump? 8 A. Yeah. 9 Q. Is there any familial connection to Mr. Diemer, 10 George? 11 A. No. 12 Q. You're saying George, I mean that's Mr. Diemer, 13 George Diemer? 14 A. Yes. 15 Q. Had you done work for George prior to coming to 16 PPM? 17 A. No. 18 Q. In addition to being I think friends, you said, 19 had you had any other business relationship or any 20 other contacts with Mr. Diemer? 21 MR. ELKIND: I just object to the 22 characterization. I don't think he said he 23 was friends. He said he knew him, but 24 that's okay. SIGNATURE REP TING, INC.</p>
Page 11	Page 13
<p>1 for a while. 2 Q. Anything else come to mind? 3 A. Not off the top of my head, no. 4 Q. So you think you left Trump in about 2000? 5 A. No. 6 Q. Oh, I'm sorry, 2003? 7 A. Yeah, like '03 or '04, 2003 or '04. 8 Q. What did you do at that point? 9 A. I was employed with Professional Property 10 Managers. 11 Q. PPM? 12 A. Yes. 13 Q. How did you become employed with PPM? 14 A. Just basically I had known George 15 previously. 16 Q. How did you know George? 17 A. Just on a friendship, a light friendship 18 level. 19 Q. When did you first meet George? 20 A. I don't know. I don't know, probably in 21 Atlantic City. 22 Q. Was that within your role at Trump Marina? 23 A. Yes. I was a casino host, yes. 24 Q. So you think you met George during your tenure SIGNATURE REP TING, INC.</p>	<p>1 MR. COLEMAN: I thought he said 2 friendship, but -- 3 THE WITNESS: No. 4 MR. COLEMAN: Thank you for 5 clarification. 6 BY MR. COLEMAN: 7 Q. What was -- how would you describe your 8 relationship with George Diemer during that period a 9 few years before AC Trump Marina and then at Trump 10 Marina? 11 A. How would I describe it? 12 Q. Yes. 13 A. Just on a casual level. 14 Q. Acquaintance, were you doing stuff for him? 15 A. Acquaintance. 16 Q. While you were at Trump? 17 A. Yeah. 18 Q. You said you were a casino host? 19 A. Correct. 20 Q. I don't know the terminology, is that someone 21 that kind of takes the high rollers around, kind of 22 shows them, gives them comps, whatever? 23 A. Yeah. 24 Q. And you knew George through that capacity? SIGNATURE REP TING, INC.</p>

<p style="text-align: right;">Page 14</p> <p>1 A. Uh-huh. 2 Q. Do you remember how you met George prior to 3 that? 4 A. No. 5 Q. Do you know anyone else in Mr. Diemer's family? 6 A. From after working with him, sure. 7 Q. Did you know prior to working with him? 8 A. No. 9 Q. Is Mr. Diemer paying for your representation 10 here today? 11 MR. ELKIND: I object. Don't answer it. 12 MR. COLEMAN: What's the basis? 13 MR. ELKIND: My arrangement with 14 Mr. Hannon is confidential. 15 MR. COLEMAN: You're claiming 16 attorney/client privilege to that? 17 MR. ELKIND: Yes. 18 BY MR. COLEMAN: 19 Q. Prior to coming here today did you speak to 20 Mr. Diemer? 21 A. Prior to, yes. 22 Q. When was that? 23 A. I don't remember. 24 Q. Approximately. SIGNATURE REP TING, INC.</p>	<p style="text-align: right;">Page 16</p> <p>1 A. He knew, yeah. Yes. 2 Q. Is that why you talked to him two months ago? 3 A. No, not necessarily. No. 4 Q. Okay. Had you, in fact, been subpoenaed two 5 months ago, do you recall? 6 A. No. 7 Q. So have you then talked to him since? 8 A. No. 9 Q. Have you talked to anybody from PPM recently? 10 A. No. 11 Q. Did you look at any documents before you came 12 here today? 13 A. No. 14 Q. And my questions are all in reference to this 15 particular lawsuit, the building. 16 A. Sure. 17 Q. Okay. Has Mr. Elkind represented you before? 18 A. No. 19 Q. In what capacity have you had your deposition 20 taken before? 21 A. I don't understand the question. 22 Q. You said -- I thought you said you had had your 23 deposition taken? 24 A. Yes. SIGNATURE REP TING, INC.</p>
<p style="text-align: right;">Page 15</p> <p>1 A. Two months ago. 2 Q. What did you talk about? 3 A. All kinds of different things, how his 4 work was going and what I'm doing now and things 5 like that. 6 Q. Did you talk about the lawsuit? 7 A. Briefly, just about that there was a 8 lawsuit going on, that's about all I know. 9 Q. Did he tell you anything about it? 10 A. Not really, no. 11 Q. Excluding your counsel, did you talk to anybody 12 else about coming here today? 13 A. No. 14 Q. So the only two people in the world that knew 15 you were coming here today were George and your 16 attorney? 17 A. Correct. 18 MR. ELKIND: I object. He didn't say that 19 he knew George -- George knew he was coming 20 here today. 21 BY MR. COLEMAN: 22 Q. Did George know you were coming here today? 23 A. Today, I don't know today. 24 Q. Did he know that you had been subpoenaed? SIGNATURE REP TING, INC.</p>	<p style="text-align: right;">Page 17</p> <p>1 Q. Okay. When was that? 2 A. I don't remember off the top of my head, 3 say '04. 4 Q. And what did it involve? 5 A. Just a real estate matter, personal. 6 Q. A personal real estate matter. Ever been 7 deposed otherwise? 8 A. No. 9 Q. Ever been involved in any other lawsuits? 10 A. No. 11 Q. Have you ever testified at trial? 12 A. No. 13 Q. When you went to PPM in and around 2003 did 14 George solicit you to come to PPM? 15 A. Uh-huh. 16 Q. What or how did he describe the role you would 17 be playing for PPM? 18 A. It was property management. 19 Q. And at 2003 or in and around 2003 when you came 20 aboard to PPM how many properties were you the 21 property manager for? 22 A. I don't remember. No, I don't remember 23 how many. 24 Q. More than two? SIGNATURE REP TING, INC.</p>

<p style="text-align: right;">Page 22</p> <p>1 Q. Were you told that there was any other use of 2 the building at that point? 3 A. Prior to me getting there? 4 Q. When you were taking over property manager were 5 you told that there were any other -- was there any 6 other use of the building occurring at that point? 7 A. At that time, no. 8 Q. You didn't ever maintain office space at that 9 building, did you? 10 A. No. 11 Q. Fair to say that the property management 12 function is run out -- for PPM is run out of the 13 Mount Laurel location? 14 A. Yes. 15 Q. So the back office is there, the office space, 16 computers, phones, secretaries, what have you is all 17 in the Mount Laurel location? 18 A. For, yes. 19 Q. For PPM? 20 A. Yes. 21 Q. Did you maintain or use any space in the 7th 22 and Allen building at any point for your own 23 purposes? 24 A. No. SIGNATURE REP TING, INC.</p>	<p style="text-align: right;">Page 24</p> <p>1 floor? 2 A. Correct. 3 Q. There was a thrift store, was that also on the 4 first floor? 5 A. Correct. 6 Q. Were there any other tenants on the first 7 floor? 8 A. No. 9 Q. Did you guys walk the second and third floors? 10 A. Yes. 11 Q. And tell me what the second and third floors 12 looked like in 2003 when you walked them. 13 A. Just vacant. 14 Q. Did you have an opportunity to walk the 15 basement of the property at that point? 16 A. Yes. 17 Q. What did the basement of the property look like 18 in 2003? 19 A. Vacant. 20 Q. In addition to the thrift store and the Eckerd 21 space on the first floor, was there also vacant 22 space on the first floor level? 23 A. I don't remember. 24 Q. Did you speak with the Rite Aid, the Eckerd SIGNATURE REP TING, INC.</p>
<p style="text-align: right;">Page 23</p> <p>1 Q. Do you know during your tenure as property 2 manager, do you know if anyone from PPM used any 3 space in the 7th and Allen building for property 4 management purposes? 5 A. No. 6 Q. You don't know or they did not? 7 A. They did not. 8 Q. How -- it's my understanding that you were -- 9 strike that. 10 How long were you the property manager for PPM 11 for this particular building? 12 A. I'd say around four, maybe five years. 13 Q. So 2003 to 2008ish? 14 A. Yes. 15 Q. That often happens, you start to communicate 16 non-verbally. When you made your first trip up to 17 the building, did you go up with anybody or was it 18 just you? 19 A. I went up with Connie White. 20 Q. Connie White. Did you guys walk the building, 21 do you remember? 22 A. Yes. 23 Q. In 2003 you said there were two tenants, there 24 was a Eckerd Drug and that's I think on the first SIGNATURE REP TING, INC.</p>	<p style="text-align: right;">Page 25</p> <p>1 folks at that first visit? Do you have any 2 recollection? 3 A. No, I don't remember. 4 Q. Was it your practice at that point to take 5 field notes or to write kind of reports as to the 6 conditions and what you saw at the property for 7 potential future reference or future use? 8 A. At that point? 9 Q. Yes. 10 A. No. 11 Q. At any point was that your practice? 12 A. Yes. 13 Q. Can you tell me what -- what that practice 14 would entail? 15 A. Just an overall site visual inspection. 16 Q. Would you memorialize that in a written 17 document? 18 A. No. 19 Q. I think I just misunderstood then. So you 20 would just go up and just do a site inspection and 21 see what you saw, but not write it down anywhere? 22 A. No. Normally, no. 23 Q. During that first inspection did you talk with 24 Miss White about how the property was heated? SIGNATURE REP TING, INC.</p>

<p style="text-align: right;">Page 26</p> <p>1 A. No.</p> <p>2 Q. At any point after -- or at any point did you</p> <p>3 talk to Miss White about how the property was</p> <p>4 heated?</p> <p>5 A. I don't -- I don't remember, no.</p> <p>6 Q. Was there electrical -- was the second and</p> <p>7 third floor of the electrified in 2003?</p> <p>8 A. You mean was there an electrical panel?</p> <p>9 Q. Was it operating?</p> <p>10 A. Yeah.</p> <p>11 Q. Did you ever accompany Mr. Diemer up to the 7th</p> <p>12 and Allen property at any point?</p> <p>13 A. I don't remember.</p> <p>14 Q. Do you remember him going up there ever?</p> <p>15 A. I don't remember.</p> <p>16 Q. If or did Mr. Diemer ever accompany you to any</p> <p>17 of your other properties that you were managing for</p> <p>18 him?</p> <p>19 A. Yeah, I'm sure he has.</p> <p>20 Q. Do you have a recollection of him doing that?</p> <p>21 A. Sure.</p> <p>22 Q. But you don't have a recollection of him</p> <p>23 accompanying you to the 7th and Allen building?</p> <p>24 A. I don't remember. I'm sure he has at one</p> <p style="text-align: right;">SIGNATURE REP TING, INC.</p>	<p style="text-align: right;">Page 28</p> <p>1 A. Yeah.</p> <p>2 Q. -- pretty regularly?</p> <p>3 A. Yes.</p> <p>4 Q. During your tenure approximately '03 to '08</p> <p>5 were there ever any other tenants in the building,</p> <p>6 in addition to the Eckerd Drugs and the thrift</p> <p>7 store?</p> <p>8 A. Not that I remember.</p> <p>9 Q. So then fair to say that the second, third and</p> <p>10 basement spaces that appeared vacant on your first</p> <p>11 visit, remained vacant during your entire tenure?</p> <p>12 A. Uh-huh. Yeah. Yes.</p> <p>13 Q. Were you involved in the attempt or any</p> <p>14 attempts to lease those spaces in the building?</p> <p>15 A. I've showed it.</p> <p>16 Q. What do you recall about showing the property?</p> <p>17 A. What do you mean? I'm not sure if I</p> <p>18 understand what do I recall.</p> <p>19 Q. How many times do you think you showed it?</p> <p>20 A. A few times.</p> <p>21 Q. A few times in five years?</p> <p>22 A. Yeah, I'd say. Yeah.</p> <p>23 Q. Did you, meaning PPM, did you guys use a</p> <p>24 commercial brokerage company to assist in that</p> <p style="text-align: right;">SIGNATURE REP TING, INC.</p>
<p style="text-align: right;">Page 27</p> <p>1 point.</p> <p>2 Q. Okay. Do you also know Craig Rohner?</p> <p>3 A. Name's familiar.</p> <p>4 Q. But you don't have any personal relationship or</p> <p>5 knowledge of who he is or what he does?</p> <p>6 A. No, I don't know the name -- I can't.</p> <p>7 Q. I'll represent to you that he's a co-owner of</p> <p>8 the building, that's why it rings a bell?</p> <p>9 A. Okay. Yes. Yes, now I know.</p> <p>10 Q. Did you ever have any contact with Mr. Rohner?</p> <p>11 A. No, I don't -- not that I remember, no.</p> <p>12 Q. So George is the -- George is the operations</p> <p>13 guy, Mr. Diemer is?</p> <p>14 A. I would say, yes.</p> <p>15 Q. After your first site visit with Miss White in</p> <p>16 2003, any recollection of when the next time you</p> <p>17 were up at the property was?</p> <p>18 A. No, I don't remember.</p> <p>19 Q. How many times -- can you estimate how many</p> <p>20 times you think you were up at the property during</p> <p>21 your tenure?</p> <p>22 A. No, not off the top of my head now. I was</p> <p>23 probably there once every other month.</p> <p>24 Q. Pretty standard to visit your properties --</p> <p style="text-align: right;">SIGNATURE REP TING, INC.</p>	<p style="text-align: right;">Page 29</p> <p>1 process?</p> <p>2 A. I don't remember.</p> <p>3 Q. So how then did the process of you showing the</p> <p>4 property like come to your attention?</p> <p>5 A. Just field phone calls.</p> <p>6 Q. Okay. So someone would call up PPM and say I'd</p> <p>7 like to take a look at the space, you would meet</p> <p>8 them out there and do that?</p> <p>9 A. Correct.</p> <p>10 Q. Do you have a recollection as to any -- who any</p> <p>11 of those people or entities were?</p> <p>12 A. No.</p> <p>13 Q. Do you know if anyone else was engaged in also</p> <p>14 showing the property?</p> <p>15 A. I don't remember now.</p> <p>16 Q. Would you -- would it be your practice if</p> <p>17 someone wanted to see a property that you were</p> <p>18 managing, would it be the practice that you would be</p> <p>19 looped into that you think?</p> <p>20 A. If someone wanted, yes.</p> <p>21 Q. Was there anyone else at PPM or otherwise that</p> <p>22 was an assistant or co-manager of any sort?</p> <p>23 A. No.</p> <p>24 Q. So you were the guy, for lack of a better term?</p> <p style="text-align: right;">SIGNATURE REP TING, INC.</p>

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<p>1 A. Yes.</p> <p>2 Q. To the best of your recollection -- strike</p> <p>3 that.</p> <p>4 Did the condition on the second, third or</p> <p>5 basement of the property, did that change materially</p> <p>6 over the five years that you were the property</p> <p>7 manager?</p> <p>8 A. Not that I remember, no.</p> <p>9 Q. Can you, to the best of your recollection,</p> <p>10 describe what the third floor looked like during</p> <p>11 your tenure?</p> <p>12 A. No. It was just from what I remember it</p> <p>13 looked like the company just picked up and left.</p> <p>14 Q. When you say the company, you mean the prior</p> <p>15 tenant for the space?</p> <p>16 A. Yes.</p> <p>17 Q. How about the second floor of the building?</p> <p>18 A. I don't remember.</p> <p>19 Q. And the basement?</p> <p>20 A. Basement was just vacant.</p> <p>21 Q. I think you said it was your practice to visit</p> <p>22 each one of your properties either every month or</p> <p>23 every couple months. What would that typically</p> <p>24 entail with respect to this building?</p> <p>SIGNATURE REP TING, INC.</p>	<p>1 like that.</p> <p>2 BY MR. COLEMAN:</p> <p>3 Q. So you did a perimeter walk-around?</p> <p>4 A. Yes.</p> <p>5 Q. Look for broken windows, broken doors?</p> <p>6 A. Yes.</p> <p>7 Q. Any graffiti, things like that?</p> <p>8 A. Yes.</p> <p>9 Q. Would that site visit also entail a visit to</p> <p>10 each floor of the property?</p> <p>11 A. Yes.</p> <p>12 Q. So you think each time you went up there every</p> <p>13 month or two months or what have you, you would do</p> <p>14 an entire walk-through of the property?</p> <p>15 A. Yes.</p> <p>16 Q. During those walk-throughs did you notice roof</p> <p>17 leaks at any point?</p> <p>18 A. No, not that I remember.</p> <p>19 Q. Did you notice or do you have a recollection of</p> <p>20 any other water leaks in the property during your</p> <p>21 tenure?</p> <p>22 A. No.</p> <p>23 Q. If some form of maintenance needed to be done</p> <p>24 that you noticed at your site inspection, what was</p> <p>SIGNATURE REP TING, INC.</p>
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<p>1 MR. ELKIND: I do not think he quite said</p> <p>2 that.</p> <p>3 MR. COLEMAN: Did you understand the</p> <p>4 question?</p> <p>5 THE WITNESS: Could you repeat it?</p> <p>6 MR. COLEMAN: Sure. Could you read it</p> <p>7 back?</p> <p>8</p> <p>9 * * *</p> <p>10 (Whereupon, the court reporter read back</p> <p>11 the pending question.)</p> <p>12 * * *</p> <p>13</p> <p>14 MR. COLEMAN: Do you understand that</p> <p>15 question?</p> <p>16 THE WITNESS: Yes.</p> <p>17 MR. ELKIND: My objection was to every</p> <p>18 couple months, which was expanded from what</p> <p>19 he said.</p> <p>20 MR. COLEMAN: Can you answer that? Did</p> <p>21 you understand?</p> <p>22 THE WITNESS: Yeah. Yeah. Okay. I</p> <p>23 would visually inspect the property, the</p> <p>24 building, the area, the parking lots, things</p> <p>SIGNATURE REP TING, INC.</p>	<p>1 the process for then getting that work completed?</p> <p>2 A. I would just bid it out and choose the</p> <p>3 lowest bidder or actually -- yeah.</p> <p>4 Q. Did you have to get authority from George or</p> <p>5 anyone else at PPM to do those kind of routine</p> <p>6 maintenance things?</p> <p>7 A. No.</p> <p>8 Q. It was within your scope of authority to bid</p> <p>9 out a project, bid out a repair, maintenance, what</p> <p>10 have you, and then execute the contract?</p> <p>11 A. Correct.</p> <p>12 Q. And was that a standard practice that you</p> <p>13 undertook with this particular property?</p> <p>14 A. Yes.</p> <p>15 Q. You would hire outside vendors, outside</p> <p>16 contractors, specialists, what have you, to come in,</p> <p>17 address situations or do inspections, what have you,</p> <p>18 and then you would follow-up with that?</p> <p>19 A. Correct.</p> <p>20 Q. Okay. Do you remember undertaking that process</p> <p>21 or being involved in that process in connection with</p> <p>22 the fire suppression company?</p> <p>23 A. I'm not sure if I understand what you're</p> <p>24 saying.</p> <p>SIGNATURE REP TING, INC.</p>

<p style="text-align: right;">Page 38</p> <p>1 freezing, is that something typically you would have 2 found important or put weight on? 3 A. Yeah, if it needed to be heated. 4 Q. Do you know if the second or third floor of the 5 properties were heated? 6 A. I don't remember. 7 Q. Do you remember how the first floor was heated? 8 A. No. 9 Q. Do you have any recollection of construction 10 materials or other things that might be used in the 11 maintenance of the building being stored anywhere in 12 the building? 13 A. No, I don't remember. 14 Q. Did you maintain any like stash or store of 15 construction materials or any tools or anything else 16 like that within the property? 17 MR. KANCHER: Object to the term stash, 18 but we're of a different age. 19 MR. COLEMAN: Cache. 20 THE WITNESS: No, I don't remember. 21 BY MR. COLEMAN: 22 Q. So you have no recollection of having 23 maintained or stored any materials, construction 24 goods, anything that you would be -- anything that SIGNATURE REP TING, INC.</p>	<p style="text-align: right;">Page 40</p> <p>1 Q. -- send to the building and address certain 2 things? To your knowledge, did PPM or 7th and 3 Allen, did they use the second or third floors at 4 any point? 5 A. For? 6 Q. For anything. 7 A. No. 8 Q. Do you think they would have known if they were 9 using the second or third floors for any purpose? 10 A. I will think so, yes. 11 Q. Why do you think you would have known? 12 A. Just things would have looked different 13 and I mean it's -- how would I have known, just I 14 guess a visual inspection I would have noticed. 15 Q. How was the property accessed physically? Was 16 there a key, were there a set of keys? 17 A. Keys. 18 Q. Did you possess those? 19 A. Yes. 20 Q. Were those maintained in PPM's office? 21 A. Yes. 22 Q. During your tenure there was there anyone else 23 that would also regularly visit the property with 24 you? SIGNATURE REP TING, INC.</p>
<p style="text-align: right;">Page 39</p> <p>1 you might need in connection with the property at 2 the property during your tenure? 3 A. Not that I remember, no. 4 Q. Did you do any physical labor yourself during 5 your tenure here at this property? Were you 6 physically repairing things? 7 A. No. 8 Q. If there was a light out -- 9 A. No. 10 Q. -- or if there was a window broken, that was 11 all contracted out? 12 A. Correct. 13 Q. Okay. I apologize if this is somewhat 14 redundant, was there anyone else at PPM that would 15 have been called out to make replacements or to fix 16 lights, to fix windows, to mop up floors? 17 A. No. 18 Q. So is it fair to say the only people that would 19 have done that for this particular building were 20 outside contractors? 21 A. Yeah. That's how I remember it, yeah. 22 Q. So PPM didn't have like a maintenance group or 23 a maintenance person that they would -- 24 A. No. SIGNATURE REP TING, INC.</p>	<p style="text-align: right;">Page 41</p> <p>1 A. No. 2 Q. Okay. Do you have any recollection of the 3 third floor has that bank of windows on it? 4 A. Yeah. 5 Q. During your tenure as property manager did you 6 have any problems with any of those windows at any 7 point? 8 A. Not that I recall, no. 9 Q. Do you recall problems with people accessing 10 the building that weren't supposed to be accessing 11 the building? 12 A. No, not that I remember now. 13 Q. During your tenure were there any thefts from 14 the property? 15 A. Not that I remember. 16 Q. Any break-ins, anything like that? 17 A. No. 18 Q. Again, is that something that if it had 19 happened, you would have been the guy that would 20 have known? 21 A. Yes. 22 Q. Was part of your role to be a liaison for the 23 tenants and the property owner? 24 A. Yes. SIGNATURE REP TING, INC.</p>

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<p>1 "6-3-04, replaced three pendant heads and one 2 bushing that were leaking. Replaced missing FDC 3 cap. Recharged system and reset panel. No leaks." 4 Do you have any independent recollection of 5 Kistler O'Brien finding three leaking pendant heads 6 in June of 2004? 7 A. No. 8 Q. If you look to the first page, the exhibit, 9 it's the second entry down, it's 5-11-07. 10 A. Uh-huh. 11 Q. It reads, "Spoke w/Brian Hannon and explained 12 that we are not continuing with inspection." 13 Did I read that correctly? 14 A. Yes. 15 Q. Do you have a recollection of being with 16 someone at Kistler O'Brien about Kistler refusing to 17 continue to perform inspections of this property? 18 A. No. 19 Q. Second sentence in that paragraph reads, 20 "System has been written up and nothing done." 21 Did I read that correctly? 22 A. Yes. 23 Q. Do you have an understanding as to what that 24 means? SIGNATURE REP TING, INC.</p>	<p>1 Q. And it's my understanding you left PPM prior to 2 this particular event, correct? 3 A. To what event? 4 Q. The March 2009 event. 5 A. Correct. 6 Q. Did you ever talk to anyone at PPM about what 7 had happened during that incident? 8 A. No, not really. No. 9 Q. You say not really, did you talk to anybody? 10 A. I spoke to Laura initially and she just 11 told me about what, you know, that something had 12 happened, but that's about all I knew. 13 Q. Initially in and around March 2009? 14 A. No, I think I was later than that. 15 Q. What did she tell you happened? 16 A. She just -- I guess that there was a 17 flood, that's all she knew. 18 MR. COLEMAN: Mark this as Hannon-4 19 please, Miss? 20 * * * 21 (Whereupon, Exhibit Hannon-4 was marked 22 for identification.) 23 * * * 24 SIGNATURE REP TING, INC.</p>
<p>1 A. No. 2 Q. Final sentence says, "Multiple leaks, unheated 3 areas, heads over 50 years old, FDC caps missing. 4 Building is a hazard - no lights, holes in the 5 floors." 6 Did I read that correctly? 7 A. Yes. 8 Q. Do you have any recollection of speaking with 9 anyone from Kistler about any of the issues that 10 were identified in that paragraph I just read? 11 A. Not that I remember, no. 12 Q. Fair to say that you're the only Brian Hannon 13 working for PPM at that point? 14 A. Fair to say. 15 Q. Do you have an understanding as to what the 16 phrase "system has been written up" means? 17 MR. KANCHER: I'm going to object to the 18 form. 19 THE WITNESS: Yeah, I don't know what 20 that means. 21 BY MR. COLEMAN: 22 Q. Do you have any recollection of Kistler 23 reporting multiple leaks 5-2007? 24 A. No, not that I remember. No. SIGNATURE REP TING, INC.</p>	<p>1 BY MR. COLEMAN: 2 Q. If you would take a look please, sir, at what 3 we marked as Hannon-4. For the record, it's Kistler 4 0036. Do you have any recollection of having seen 5 this document before today, sir? 6 A. No. 7 Q. And just focus your attention on kind of the 8 middle where it says, "Performance 9 Expectation/Reported Condition." 10 A. Okay. 11 Q. Reads, "Trouble call, alarm panel going off, 12 water pipe broken 4th floor -- something that's 13 indecipherable -- looks like water line must have 14 froze and broken. Building unheated, pipe is coming 15 off of boiler system. Not a sprinkler problem." 16 Do you see where I read that? 17 A. Yeah. 18 Q. Do you have any recollection of that particular 19 incident? 20 A. No. 21 Q. Okay. In this timeframe, February of 2004, you 22 would have been the person that would have addressed 23 something like this though, right? 24 A. Right. SIGNATURE REP TING, INC.</p>

<p style="text-align: right;">Page 70</p> <p>1 Q. And then if you look under work performed, the 2 second two -- the last two lines, it says looks like 3 a star, "Note, building heat must be maintained in 4 unoccupied areas to prevent future problems." 5 Did I read that correctly? 6 A. Right. 7 Q. And your testimony is you have no recollection 8 of there being a problem with unheated areas in this 9 building? 10 A. Right. 11 Q. Would it have been your typical practice to 12 review reports provided by contractors that were 13 working for you and PPM? 14 A. Yes. 15 MR. COLEMAN: If you would mark this as 16 Hannon-5, please? 17 18 * * * 19 (Whereupon, Exhibit Hannon-5 was marked 20 for identification.) 21 * * * 22 23 BY MR. COLEMAN: 24 Q. Sir, for the record we've marked as Hannon-5 SIGNATURE REP TING, INC.</p>	<p style="text-align: right;">Page 72</p> <p>1 documents like this from Kistler? 2 A. Uh-huh. 3 Q. Okay. And this is dated 11-04-04, which 4 overlaps your tenure as property manager? 5 A. Correct. 6 Q. And just focus your attention on the first page 7 one, says General and then it's subheading little 8 "I". You see where I'm looking? 9 A. Uh-huh. 10 Q. Says, "In areas protected by wet system, does 11 the building appear to be properly heated in all 12 areas, including blind attics, perimeter areas and 13 are all exterior openings against entrance of cold 14 air?" 15 And do you see there's a mark there to the 16 right? 17 A. Right. 18 Q. And that's in the no column? 19 A. Uh-huh. 20 Q. And then if you look at the second page under 21 18, says explanation of any no answers. You see 22 where I'm looking at? 23 A. Uh-huh. 24 Q. And I'll represent to you I believe we got this SIGNATURE REP TING, INC.</p>
<p style="text-align: right;">Page 71</p> <p>1 it's a Sprinkler System Inspection Report from 2 Kistler O'Brien dated 11-4-04. If you could take a 3 second and look at that. Have you had a second to 4 look at this? 5 A. Uh-huh. 6 Q. Do you have a recollection of having seen 7 documents like this from Kistler O'Brien during your 8 tenure as property manager? 9 A. Documents like this? 10 Q. Yes. 11 A. Yes. 12 Q. Now, is this the inspection report that I think 13 you referenced before, the inspection that was done 14 by Kistler O'Brien? 15 A. I'm sorry, I'm not sure what you mean by 16 that. 17 Q. Is this document the report that you had 18 received after Kistler did an inspection of the 19 building? 20 A. Yes. 21 Q. Do you have any recollection of seeing this 22 particular document? 23 A. No. 24 Q. Okay. But recollection generally of seeing SIGNATURE REP TING, INC.</p>	<p style="text-align: right;">Page 73</p> <p>1 from a technician who wrote it, but there's a 2 bracket there on the second line, it's 1 little "I" 3 it looks like. You see where I'm looking at, on the 4 second line of 18? 5 A. Okay. 6 Q. And that corresponds to the 1 little "I" that 7 we looked at that identified that the building was 8 not adequately protected on the front, first page. 9 Do you follow me? 10 A. Okay. 11 Q. Do you follow me? 12 A. Uh-huh. 13 Q. And then after that 1 little "I" on 18, and I 14 know it's hard to read, but it would appear to read, 15 "The unoccupied parts of the building -- 16 something -- have heat, pipes could freeze and 17 break." 18 Do you see where I read that? 19 A. Yeah. 20 Q. Okay. Is that generally how you would read 21 that? 22 A. Yeah. 23 Q. So this is Kistler O'Brien identifying a 24 problem with the property lacking heat and then SIGNATURE REP TING, INC.</p>